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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/048,204	06/03/2002	Arend Jan Brilman	294-118 PCT/US	4828

7590 12/18/2003
Ronald J Baron
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6900 Jericho Turnpike
Syosset, NY 11791

EXAMINER

NGUYEN, HUNG T

ART UNIT	PAPER NUMBER
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2636

DATE MAILED: 12/18/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/048,204

Applicant(s)

BRILMAN, AREND JAN

Examiner

Hung T. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 03 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 June 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawing is objected to under 37 CFR 1.84(o) which requires legends on drawings:
In fig.3, All the number in the boxes 6, 8-9, 21-22 & 25 must be provided with descriptive labels (e.g., control unit, sensor, transmitter, receiver, etc.). Correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claim 1 recites the limitation "the basis" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the body" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the body" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "the basis" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the body" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "the station" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "the instantaneous posture" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 recites the limitation "the basis" in line 4. There is insufficient antecedent basis for this limitation in the claim.

3. Claims 6, 10 & 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 6, 10 & 12, the phrase "like or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Objections

4. Claim 13 is objected to because of the following informalities:

Regarding claim 13, line 5, a term "GMS" must be spelled out. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claim 14 is rejected under 35 U.S.C. 102(e) as being anticipated by Teodorescu et al. (U.S. 6011,477).

Regarding claim 14, Teodorescu discloses a method for registering / program or store in a memory, movement pattern of individual, in particular lying positions of relatively young children / infant (14) [fig.8, col.2, lines 40-47, col.9, lines 13-20] comprising:

- a sensor (12) for detecting respiration and movements of an infant (14) [figs.1,5,7, col.1, lines 58-65, col.2, lines 4-17 , col.3, lines 55-59 , col.7, lines 57-65];
- the infant's data inputs are stored in the memory for detecting the respiration and movements of the infant [col.2, lines 4-47 , col.9, lines 1-20 and col.10, lines 45-67];
- a monitoring system (10) includes a controller (26) is connected to a communication unit (28) for transmitting alarm signal to remote wireless communication (30) whenever the sleeping position is incorrect position , respiration is abnormal, and also movements of infant. Those

signals are compared with the predetermined thresholds [fig.1, col.4, lines 12-19 , col.8, lines 37-46 and col.11, lines 8-45] and

- the monitoring system (10) includes an alarm signal is audio signal / two way audio communication such as mobile phone [fig.1, col.4, lines 12-19 , col.8, lines 37-46 and col.11, lines 8-45].

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teodorescu et al. (U.S. 6011,477) in view of Dodakian (U.S. 5,295,490).

Regarding claim 1, Teodorescu discloses a method for registering / program or store in a memory, movement pattern of individual, in particular lying positions of relatively young children / infant (14) [fig.8, col.2, lines 40-47, col.9, lines 13-20] comprising:

- a sensor (12) for detecting respiration and movements of an infant (14) [figs.1,5,7, col.1, lines 58-65, col.2, lines 4-17 , col.3, lines 55-59 , col.7, lines 57-65];
- the infant's data inputs are stored in the memory for detecting the respiration and movements of the infant [col.2, lines 4-47 , col.9, lines 1-20 and col.10, lines 45-67];

- a monitoring system (10) includes a controller (26) is connected to a communication unit (28) for transmitting alarm signal to a remote wireless communication (30) [fig.1, col.4, lines 12-19 , col.8, lines 37-46 and col.11, lines 8-45].

Teodorescu fails to specifically mention the sensor is attached to or onto the infant.

Teodorescu discloses the sensor (12) for detecting respiration and movements of an infant (14) such as a child resting on the sensor [figs.1,5,7, col.1, lines 58-65, col.2, lines 4-17 , col.3, lines 55-59 , col.7, lines 57-65].

Furthermore, Dodakian discloses a method for registering / program or store in a memory, movement pattern of individual, in particular lying positions of relatively young children / infant having a sensor / detector (14) which may be worn around the chest or abdomen of the infant [fig.1, col.2, lines 60-66 and col.5, lines 1-10].

Therefore, it would have been obvious to one having ordinary skill in the art to employ the teaching of Dodakian in the system of Teodorescu for providing a multi option to mount or attach the sensor at any desired location for detecting respiration and movements of an infant.

Regarding claims 2-3, Teodorescu discloses the method for registering / program or store in a memory, movement pattern of individual, in particular lying positions of relatively young children / infant (14) [fig.8, col.2, lines 40-47, col.9, lines 13-20] comprising:

- the infant's data inputs are stored in the memory for detecting the respiration and movements of the infant [col.2, lines 4-47 , col.9, lines 1-20 and col.10, lines 45-67];
- the monitoring system (10) includes the controller (26) is connected to the communication unit (28) for transmitting alarm signal to the remote wireless communication (30) whenever the

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sleeping position is incorrect position , respiration is abnormal, and also movements of infant.

Those signals are compared with the predetermined thresholds [fig.1, col.4, lines 12-19 , col.8, lines 37-46 and col.11, lines 8-45].

Regarding claim 4, Teodorescu discloses the method for registering / program or store in a memory, movement pattern of individual, in particular lying positions of relatively young children / infant (14) [fig.8, col.2, lines 40-47, col.9, lines 13-20] comprising:

- the infant's data inputs are stored in the memory for detecting the respiration and movements of the infant [col.2, lines 4-47 , col.9, lines 1-20 and col.10, lines 45-67];
- the monitoring system (10) includes the controller (26) is connected to the communication unit (28) for transmitting alarm signal to the remote wireless communication (30) whenever the sleeping position is incorrect position , respiration is abnormal, and also movements of infant. Those signals are compared with the predetermined thresholds [fig.1, col.4, lines 12-19 , col.8, lines 37-46 and col.11, lines 8-45].

Regarding claim 5, Teodorescu discloses an apparatus for registering / program or store in a memory, movement pattern of individual, in particular lying positions of relatively young children / infant (14) [fig.8, col.2, lines 40-47, col.9, lines 13-20] comprising:

- a sensor (12) for detecting respiration and movements of an infant (14) [figs.1,5,7, col.1, lines 58-65, col.2, lines 4-17 , col.3, lines 55-59 , col.7, lines 57-65];
- the infant's data inputs are stored in the memory for detecting the respiration and movements of the infant [col.2, lines 4-47 , col.9, lines 1-20 and col.10, lines 45-67];

- a monitoring system (10) includes a controller (26) is connected to a communication unit (28) for transmitting alarm signal to a remote wireless communication (30) [fig.1, col.4, lines 12-19 , col.8, lines 37-46 and col.11, lines 8-45].

Teodorescu fails to specifically mention the sensor is attached to or onto the infant.

Teodorescu discloses the sensor (12) for detecting respiration and movements of an infant (14) such as a child resting on the sensor [figs.1,5,7, col.1, lines 58-65, col.2, lines 4-17 , col.3, lines 55-59 , col.7, lines 57-65].

Furthermore, Dodakian discloses a method for registering / program or store in a memory, movement pattern of individual, in particular lying positions of relatively young children / infant having a sensor / detector (14) which may be worn around the chest or abdomen of the infant [fig.1, col.2, lines 60-66 and col.5, lines 1-10].

Therefore, it would have been obvious to one having ordinary skill in the art to employ the teaching of Dodakian in the system of Teodorescu for providing a multi option to mount or attach the sensor at any desired location for detecting respiration and movements of an infant.

Regarding claim 6, Teodorescu discloses the monitoring system (10) includes an alarm signal is audio signal / two way audio communication such as mobile phone [fig.1, col.4, lines 12-19 , col.8, lines 37-46 and col.11, lines 8-45].

Regarding claims 7-8, Teodorescu discloses the apparatus for registering / program or store in a memory, movement pattern of individual, in particular lying positions of relatively young children / infant (14) [fig.8, col.2, lines 40-47, col.9, lines 13-20] comprising:

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- the infant's data inputs are stored in the memory for detecting the respiration and movements of the infant [col.2, lines 4-47 , col.9, lines 1-20 and col.10, lines 45-67];
- the monitoring system (10) includes the controller (26) is connected to the communication unit (28) for transmitting alarm signal to the remote wireless communication (30) whenever the sleeping position is incorrect position , respiration is abnormal, and also movements of infant. Those signals are compared with the predetermined thresholds [fig.1, col.4, lines 12-19 , col.8, lines 37-46 and col.11, lines 8-45].

Regarding claim 9, Teodorescu does not discloses the apparatus for registering / program or store in a memory, movement pattern of individual, in particular lying positions of relatively young children / infant (14) is encoded.

However, Teodorescu discloses the apparatus for registering / program or store in a memory, movement pattern of individual, in particular lying positions of relatively young children / infant (14) [fig.8, col.2, lines 40-47, col.9, lines 13-20] comprising:

- the infant's data inputs are stored in the memory for detecting the respiration and movements of the infant [col.2, lines 4-47 , col.9, lines 1-20 and col.10, lines 45-67];
- the monitoring system (10) includes the controller (26) is connected to the communication unit (28) for transmitting alarm signal to the remote wireless communication (30) whenever the sleeping position is incorrect position , respiration is abnormal, and also movements of infant. Those signals are compared with the predetermined thresholds [fig.1, col.4, lines 12-19 , col.8, lines 37-46 and col.11, lines 8-45]. Therefore, it would have been obvious to one having ordinary skill in the art to have the system of Teodorescu & Dodakian for monitoring the

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respiration and movements of an infant at a different way but performing the same function as desired.

Regarding claim 10, Teodorescu discloses the apparatus for registering / program or store in a memory, movement pattern of individual, in particular lying positions of relatively young children / infant (14) [fig.8, col.2, lines 40-47, col.9, lines 13-20] comprising:

- the infant's data inputs are stored in the memory for detecting the respiration and movements of the infant [col.2, lines 4-47 , col.9, lines 1-20 and col.10, lines 45-67];
- the monitoring system (10) includes the controller (26) is connected to the communication unit (28) for transmitting alarm signal to the remote wireless communication (30) whenever the sleeping position is incorrect position , respiration is abnormal, and also movements of infant. Those signals are compared with the predetermined thresholds [fig.1, col.4, lines 12-19 , col.8, lines 37-46 and col.11, lines 8-45].

Regarding claim 11, Dodakian discloses the sensor / detector (14) relatively smooth and flat which may be worn around the chest or abdomen of the infant [fig.1, col.2, lines 60-66 and col.5, lines 1-10].

Regarding claim 12, Both Teodorescu & Dodakian disclose the sensors (12 & 14) for pick up audio signal from the infant's breathing [figs.1,5,7, col.1, lines 58-65, col.2, lines 4-17 , col.3, lines 55-59 , col.7, lines 57-65] & [fig.1, col.2, lines 60-66 and col.5, lines 1-10].

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Regarding claim 13, Teodorescu discloses the monitoring system (10) includes an alarm signal is audio signal / two way audio communication such as mobile phone [fig.1, col.4, lines 12-19 , col.8, lines 37-46 and col.11, lines 8-45] and

- the monitoring system (10) includes the controller (26) is connected to the communication unit (28) for transmitting alarm signal to the remote wireless communication (30) whenever the sleeping position is incorrect position , respiration is abnormal, and also movements of infant [fig.1, col.4, lines 12-19 , col.8, lines 37-46 and col.11, lines 8-45].

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Higgins et al. (U.S. 5,479,932) Infant health monitoring system.
- Magic (U.S. 5,749,365) Health monitoring.
- Pomerantz (U.S. 5,774,055) Infant monitoring device.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung T. Nguyen whose telephone number is (703) 308-6796. The examiner can normally be reached on Monday to Friday from 8:00am to 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hofsass, Jeffery can be reached on (703) 305-4717. The fax phone number for this Group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.



Examiner: Hung T. Nguyen

Date: Dec. 11, 2003